

*Criminal Code*

is prima facie evidence of an intent to mislead. What I am trying to get at is no standard is set up to establish the intent to mislead. Therefore, the Crown would have a virtually impossible task, I submit, in proving the *mens rea*, because the statute itself sets up a supposed *mens rea* or guilty mind. The Crown has the burden of proving not only that the print is in a different size but also has the burden of proving that the person who caused the printing to be done or who did the printing had a guilty mind.

I suggest that under this bill an accused would only have to say he had no intention to mislead and was clearly unaware of any possibility of that result. If he did that, every single case could be dismissed unless the Crown were able to show the accused had an evil intent. I submit it is impossible for anyone to read inside the person's mind if he says he did not intend the act.

**Mr. Aiken:** Read the fine print.

**Mr. Gibson:** That is my point. If the section said that having fine print is prima facie evidence of intent to deceive, then there would be an onus on the accused to explain. If this onus were included, the situation would be different.

Under these circumstances, however, I submit the statute leaves hanging in the air the mental element in the crime. Dealing with the topic on a broader basis, I submit this is basically insurance law. It is broad in scope. If the wording is "contract, deed or other document issued by him" it could include anything. It could be a parking ticket, a receipt from a theatre, or anything.

**An hon. Member:** *Hansard*.

**Mr. Gibson:** Or even *Hansard*. It is far too all embracing to be embodied in the criminal law of this country. I submit that in the civil aspect fraud and misrepresentation are adequately dealt with as a provincial right under the laws of the provinces. Fraud or intentional misrepresentation is fertile ground for provincial legislation as a basis for civil actions. I believe this bill might well lead to a lot of witch hunting and a good deal of costly and useless litigation could be brought before magistrates who have more important things to do than hear cases of the type referred to in this particular section.

Certainly, the subject matter has merit. I submit the member should recommend it to

his provincial legislature so that it might get on with the job. The Ontario legislature has brought in a number of laws in this field. So, in bringing forward the bill I believe the hon. member has meritorious motives and should be commended for thinking along these lines.

**Some hon. Members:** Hear, hear.

**Mr. Gibson:** However, there are many ways in which this bill could be circumvented. For instance, if the entire contract were printed in tiny print throughout it might achieve the goal set by one who intends to mislead. In respect of a land deed, we would be dealing with the province. In the province there is a registry office, a land office and legislation dealing with deeds. Therefore, I believe this would be more effectively dealt with by the provinces. In my province of Ontario, the laws in respect of land, deeds and instruments are specialized and are examined frequently. The hon. Mr. McRuer in dealing with the matter of civil liberties I believe reviewed this topic with some distinction. I am not intending to pat my own province of Ontario on the back. I am sure the province of Nova Scotia and all the other provinces have adequately dealt with this matter.

If we should make a universal provision such as this dealing with contracts per se we would run into a good many difficulties from one region to another which we did not anticipate. Problems would arise which had not been foreseen and parliament would regret having made such a move. Therefore, I believe the true intent and spirit in this matter lies within the purview and responsibility of the provincial legislatures.

In dealing with the penalty clause, I submit the penalty is not appropriate. The offence is stated to be an indictable offence. However, the punishment suggested is less than it is in the case of a summary conviction offence as found in section 694 of the Criminal Code.

**Mr. Speaker:** Order, please. The hon. member's contribution is most interesting. Does the house wish to hear the hon. member beyond six o'clock?

**Mr. Laniel:** En français.

**Mr. Speaker:** In view of the fact that there is not unanimous consent, it being six o'clock I now leave the Chair.

At six o'clock the house took recess.